

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:94CR147

UNITED STATES OF AMERICA)
)
VS.)
)
TOM AARON TATE)

)

ORDER

This matter is before the Court upon the *pro se* Defendant's Motion for Reconsideration and Notice and Motion of Clerical Error on the Record of this Court.

On October 17, 2011, this Defendant moved for a reduction in sentence pursuant to 18 U.S.C. § 3582 and U.S. Sentencing Guideline Amendment 599. A supplement to the PSR was erroneously issued recommending no change in sentence *under Amendment 750* (the crack cocaine amendment) because Defendant was not charged with any offense involving crack cocaine. The Court thereafter entered an Order denying the Defendant's motion for reduction in sentence. Defendant subsequently filed a motion to reconsider, as his motion to reduce sentence was not filed under the crack guideline amendment, but Amendment 599 modifying the guidelines for § 924(c) offenses.

It appears that Defendant is correct and the Order denying his motion was entered in error. Amendment 599 does indeed apply in this case and results in a lowering of Defendant's guideline range from 188 - 235 months to 151 - 188 months on Counts 1,2,4,6 and 8. His sentence on Counts 3,5,7,9 and 11 remain unchanged. Defendant was originally sentenced to 188 months on Counts 1,2,4,6 and 8. Based upon the new guideline range, the Court hereby amends the judgment to sentence Defendant to 151 months on Counts 1,2,4,6 and 8. The remainder of the judgment shall remain the same.

IT IS THEREFORE ORDERED that Defendant's Motion for Reconsideration and
"Motion of Clerical Error on the Record of this Court" are hereby GRANTED and the Judgment
(D.E.# 89) is hereby AMENDED as stated herein.

Signed: June 6, 2013

A handwritten signature in black ink, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

